

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PAUL M. JONES,

Plaintiff,

v.

BANK OF NEW YORK, et al.,

Defendants.

Civil Action No. 1:12-CV-11503-RWZ

**MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT
BY DEFENDANTS BANK OF NEW YORK, TRUSTEE FOR THE CERTIFICATE
HOLDERS, CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-7, ANN
MARIE CASSANO, LEON DANIELS, PAUL CONNOLLY, STEPHANIE WHITED,
MELISSA FLANAGAN, M. KELLY MITCHIE, BANK OF AMERICA, N.A.,
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., TIFFANY SKAIFE,
SANDRA J. ROBINSON, AMANDA FARRAR AND MARK BISHOP**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Bank of New York, Trustee for the Certificate Holders CWABS, Inc., Asset-Backed Certificates, Series 2004-7 (“BNY Mellon”), Ann Marie Cassano, Leon Daniels, Paul Connolly, Stephanie Whited, Melissa Flanagan, M. Kelly Mitchie, Bank of America, N.A. (“BANA”), Mortgage Electronic Registration Systems, Inc. (“MERS”), Tiffany Skaife, Sandra J. Robinson, Amanda Farrar and Mark Bishop (collectively, “Defendants”) hereby move to dismiss all Counts and claims in the First Amended Complaint (“Complaint”) of Plaintiff Paul M. Jones (“Plaintiff” or “Jones”) in the above-captioned action.

As set forth in greater detail in the accompanying Memorandum of Law in Support of Defendants’ Motion to Dismiss, Plaintiff’s Complaint fails to state a claim upon which relief can be granted. The Plaintiff fails to allege facts sufficient to state a valid claim against any of the above-named Defendants under any of the federal, statutory or common law counts of his

Complaint. Furthermore, Plaintiff's claims concerning the validity of MERS' assignment of Plaintiff's mortgage are barred by the doctrines of issue and claim preclusion and must be dismissed.

WHEREFORE, for the reasons set forth herein and in the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss, the aforementioned Defendants respectfully request that this Court:

1. Dismiss this action as to Defendants with prejudice pursuant to Fed. R. Civ. P. 12(b)(6); and,
2. Award such other relief as the Court deems reasonable and just.

Respectfully submitted,

**BANK OF NEW YORK MELLON, ANN
MARIE CASSANO, LEON DANIELS,
MELISSA FLANAGAN, M. KELLY
MITCHIE, PAUL CONNOLLY,
STEPHANIE WHITED, BANK OF
AMERICA, N.A., MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., TIFFANY SKAIFE,
SANDRA J. ROBINSON, AMANDA
FARRAR AND MARK BISHOP,**

By their attorneys,

Dated: December 6, 2012

/s/ Neil D. Raphael

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CERTIFICATE OF SERVICE

The undersigned understands that the following counsel of record are registered on the Court's CM/ECF database. As a result, these individuals (1) will receive from the Court electronic notification of the filing of the *Defendants' Motion to Dismiss*, filed via ECF on December 6, 2012; (2) have access to this document through the Court's website; and (3) will not receive paper copies of the foregoing from the undersigned upon filing.

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Henry C. Dinger - HDinger@GoodwinProcter.com

I further certify that on December 6, 2012, a true copy of the foregoing *Defendants' Motion to Dismiss* was served by first-class mail, postage prepaid upon Paul M. Jones, *pro se*, 572 Park Street, Stoughton, MA 02072.

/s/ Neil D. Raphael

Neil D. Raphael